

## United States Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/884,814	06/18/2001	Jin-Long Chen	18781-001110	5102	
20350	7590 03/26/2004		EXAMINER		
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			CARLSON,	CARLSON, KAREN C	
			ART UNIT	PAPER NUMBER	
			1653		
				DATE MAILED: 03/26/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.  Office Action Summary  AT Unit  Examiner  Karen Cachrane Carlson, Ph.D.  1653  - The MALLNO DATE of this communication appears on the cover sheet with the correspondence address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM  THE MALLING DATE OF THIS COMMUNICATION.  If the pesiod for reply specified shore is less than their (0.0) days, a reply while the address reminers of their (2.0) days will be considered and sense 510, 910 days he less than the correspondence address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM  THE MALLING DATE OF THIS COMMUNICATION.  If the pesiod for reply specified shore is less than their (0.0) days, a reply while the address reminers of their (2.0) days will be considered and sense 510, 910 days he less than the communication.  If the pesiod for reply specified is less than their communication.  If the pesiod for reply specified and the sense of the pesiod period for reply the specified period from the specified period for reply specified and the specified period for reply specified period for the specified period for reply specified period for the specified period for reply specified period for the specified period for the specified period for reply specified period			•				
## Examiner   Examine	<u> </u>	Application No.	Applicant(s)				
Raren Cochrane Carlson, Ph.D.   1653		09/884,814	CHEN ET AL.				
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 3° CR 1.13(g <sub>0</sub> ), in no event, however, may a reply be timely filled after SX (9) MONTHS from the status of 4° CR 1.13(g <sub>0</sub> ), in no event, however, may a reply be timely filled after SX (9) MONTHS from the status of 4° CR 1.13(g <sub>0</sub> ), in no event, however, may a reply be timely filled after SX (9) MONTHS from the status of 4° CR 1.13(g <sub>0</sub> ), in no event, however, may a reply be timely filled after SX (9) MONTHS from the status of the communication.  1 If NO praid for reply is specified down, the maximum status precious all supply within the status of the communication	Office Action Summary	Examiner	Art Unit				
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extractions of time may be waited but one? the growthese of 3°CTR1.105(a). In no event, however, may a reply be turnely field  If the period for reply seperified above. Be maintered of 3°CTR1.105(a). In no event, however, may a reply be turnely field  If the period for reply seperified above. Be maintered and study prior which the statubory minimum of thinky (30) days, a reply while in the statubory minimum of thinky (30) days, a reply while in the statubory minimum of the mainting date of this communication. Palare to event the mainting date of this communication.  Falare to reply welfer the scrip cardendary period value of the communication, seen if trendy field, may reduce any seemed patent term adjustment. See 37 CTR 1.704(b).  Status  1)  Responsive to communication(s) filled on 12/29/03.  2a)  This action is FINAL. 2b)  This action is non-final.  3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 10-15 and 24-27 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) is/are allowed.  6)  Claim(s) is/are objected to.  8)  Claim(s) is/are objected to.  8)  Claim(s) is/are objected to estriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  10)  The drawing(s) filed on is/are: a)							
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time map by a validable under the provision of 3° CFR 1.13(g). In no event, however, may a reply be timely field after 5X (8) MCNTTS from the mailing date of this communication of the provision of the provi							
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Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Interview Summary (PTO-413)  Paper No(s)/Mail Date.  Paper No(s)/Mail Date.  1) Notice of Informal Patent Application (PTO-152)							
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Application/Control Number: 09/884,814

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Applicant's election without traverse of Invention II, Claims 10-15 and 24-27 in the paper filed December 29, 2003. Claims 1-9 and 16-23 have been canceled.

Priority is to July 29, 1998.

The disclosure is objected to because of the following informalities: Cross reference to the parent application must be placed on page 1 of the specification.

Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10-15 and 24-27 are are rejected under 35 U.S.C. 103(a) as being unpatentable over Boss et al. (May 12, 1997; FEBS Lett. 408(1): 39-42) in view of Bathgate et al. (1992; Molecular Microbiology 6(3): 363-370). Boss et al. teach uncoupling protein-3 having the amino acid sequence that is identical to SEQ ID NO: 1 (dependent Claim 26). This protein is encoded by a nucleic acid sequence comprising SEQ ID NO: 2 (dependent Claim 27). The codon at 55Ala is GCC (dependent Claim 24). The codon for 219Thr is ACT (dependent Claim 25).

Boss et al. do not teach operatively linking the nucleic acid sequence encoding uncoupling protein-3 to a promoter, contained in an expression vector, or an expression vector having regulatory elements that control the expression of the nucleic acid encoding uncoupling protein-3, placing a the nucleic acid encoding uncoupling protein-3 into a cell, or the cell

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having regulatory elements that control the expression of the nucleic acid encoding uncoupling protein-3, or using recombinant techniques for the production of uncoupling protein-3.

Bathgate et al. teach cDNA encoding uncoupling protein. This cDNA was inserted into vector pKV49 with the inducible GAL1-10 upstream activation site to produce pKV49-UCP. S. cerevisiae was transformed with pKV49-UCP and the expressed uncoupling protein isolated via western blot.

It would have been obvious for a person of ordinary skill in the art to insert the nucleic acid sequence encoding uncoupling protein-3 taught by Boss et al. into the vector pKV49 (Claims 10, 11, 12), transform host cells such as S. cerevisiae (Claims 13, 14), and recombinantly produce uncoupling protein-3 (Claim 15) because Bathgate et al. teach the successful expression of the analogous protein uncoupling protein when cDNA encoding uncoupling protein is placed into pKV49 and expressed from S. cerevisiae.

Prior art of record:

USP 5,741,666, Tartaglia, teach human C5 protein homolog encoded by the nucleic acid sequence depicted in SEQ ID NO:38. See the alignment attached to the patent. This nucleic acid molecule does not encode the first 10 amino acids of instant UCP2, and the codon corresponding to UCP2 amino acid position 55 encodes Val. The instant nucleic acid moleucle is not taught in  $\square$ 666, but would be expected to hybridize to SEQ ID NO:38 - see the claims.

No Claims are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Cochrane Carlson, Ph.D. whose telephone number is 571-272-0946.

The examiner can normally be reached on 7:00 AM - 4:00 PM, off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Christopher Low can be reached on 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kare Cochane Carlson, DID

KAREN COCHRANE CAHLSUN, FILL PRIMARY EXAMINER